

BY-LAWS
OF
The Municipality of Garadoc,
RELATING TO THE
DUTIES OF PATH-MASTERS & POUND-KEEPERS
Etc., Etc.

B y - L a w N o . 5 6 .

A By-Law to regulate the duties of Pathmasters, and persons liable to perform Statute Labour, in the Municipality of Caradoc.

WHEREAS, it is necessary to regulate the duties of Pathmasters, and persons liable to perform Statute Labour, within the Municipality of Caradoc;

It is, therefore, hereby enacted, by the Municipal Council of the Township of Caradoc, That it shall be the duty of the several Pathmasters, who shall be appointed from time to time, within the Municipality of Caradoc ; and they are hereby severally directed to superintend, make and keep in repair, the Highways, Roads and Bridges, belonging to them, in their respective Labour divisions, which Statute shall be called the Township of Caradoc, or at

-COFFRISINTO-

By-Law No. 50, By-Law No. 103, and Chap. LVII
of the Consolidated Statutes for Upper Canada.

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1870.



B Y - L A W S
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RELATING TO THE
DUTIES OF PATH-MASTERS & POUND-KEEPERS
Etc., Etc.

By-Law No. 56.

A By-Law to regulate the duties of Pathmasters, and persons liable to perform Statute Labour, in the Municipality of Caradoc.

WHEREAS, it is necessary to regulate the duties of Pathmasters, and persons liable to perform Statute Labour, within the Municipality of Caradoc;

It is, therefore, hereby enacted, by the Municipal Council of the Township of Caradoc, That it shall be the duty of the several Pathmasters, who shall be appointed from time to time, within the Municipality of Caradoc ; and they are hereby severally required to superintend, make and keep in repair, the Highways, Roads and Bridges, that may be allotted to them, within the Statute Labour divisions, which Statute Labour divisions shall be the divisions now existing in the Township of Caradoc, or at any time hereafter to be made or altered, by the Council of said Township ; and that every Pathmaster, having due notice of his appointment to such office, shall, on the third Saturday in April, or some subsequent day, attend at such place as may be appointed by the Council, and then take and subscribe to the Declaration of Office as by law required ; which Declaration shall be duly certified by the person administering the same, and deposited in the office of the Township Clerk ; then every person appointed to the office of Pathmaster shall receive a list of all persons liable to perform statute labour, resident within the statute labour division ; also the number of days each person is liable to perform.

And be it further enacted, by the authority aforesaid, That every such Pathmaster, after having received such statute labour list, shall notify all persons within his division liable to perform statute labour ; and after having given six days' notice of the day, hour and place appointed to assemble for work, which notice may be delivered, in writing or verbally, at the residence of said persons liable to work ; and shall then order them to work on such highways, roads and bridges within his statute labour division, as, in his opinion, may appear most beneficial for the improvement of the said highways, roads and bridges ; and shall give to every person, who shall have completed his statute labour for the year, if so required, a certificate, under his hand, that they have done their statute labour in the Township of Caradoc, for the then current year, in order to prevent such persons from being called out again to work in any other Township.

And be it further enacted, That any person, liable to perform statute labour, may commute for such labour, if he or she may think fit, before or at the time the Pathmaster shall have notified him to work on the roads, by paying the Pathmaster of the division in which he or she resides, the sum of one dollar for every day he or she may be required to work ; and such Pathmaster is required to receive the same in lieu of such statute labour, and shall and may expend the same as to him shall seem best for the improvement of the roads allotted to his division, when not otherwise instructed by the Council ; and the said Pathmaster shall render an account for the same.

And it is further enacted, That it shall and may be lawful for the Pathmaster, in the actual discharge of his duty, to direct the persons performing statute labour to cut down any tree within the space of twenty five feet from the road side (not being valuable timber for building or fencing), or underwood growing on any uninclosed lands within his statute labour division, that such Pathmaster shall think necessary for the purpose of improving the said road, doing no damage to the premises from whence they are taken.

And be it further enacted, That any person liable to perform statute labour, if not commuted for as aforesaid, shall, either in person or by an able-bodied man in his stead, under the direction of the Pathmaster, work faithfully and diligently on the said roads, and shall bring with him such tools (useful for the purpose) as he may be the owner of, and be directed by the Pathmaster to bring, and every person liable is required to work eight hours to each day's work, exclusive of the time of going and returning to the place of work; and every person possessed of a team of horses or oxen, shall send on every day, when required by the Pathmaster, a cart, or wagon and team, and one able driver to drive the same, and each day such team and driver works with the proper and necessary implements, shall be equivalent to two and one-half days' personal labour for one man; and that a team without the necessary implements, shall only be allowed at the rate of one day's work; and if any person, liable to perform statute labour, shall refuse or neglect to work faithfully, it shall and may be lawful for the Pathmaster, and he is hereby authorized to discharge such negligent person, and such person shall be liable to such forfeitures which every such person would have incurred in case such person had not attended.

And be it further enacted, That any person liable to perform statute labour, shall have power to compound for the same for a term not exceeding five years, at the rate of one dollar for each day's labour, to be computed for the whole term, from the number of days for which he or she is liable in the year in which application has been made to compound for the same, and that the work, so compounded for, shall be performed under the direction of a commissioner or commissioners appointed by the Council.

And be it further enacted, That the several Pathmasters, in the several divisions, shall cause all the statute labour under their direction and control to be performed, and all moneys coming into their hands in lieu of statute labour to be expended between the first day of May, and the first day of August, in each year; and to default thereof, shall be liable to be fined in a sum not exceeding twenty dollars, on complaint of any ratepayer in the Municipality, before any Justice of the Peace; the same to be paid over to the Township Treasurer, to be expended on the roads within such statute labour division in the succeeding year.

And be it further enacted, That in case it shall be necessary to repair any sudden breach which may be caused in any of the public highways, by reason of any bridge giving way; or any other casualty, or to remove any obstruction, it shall and may be lawful for the Pathmaster, in whose division the same may be; and they are hereby required to repair, remove or establish, or cause the same to be done by directing any person or persons in the division, and liable to perform statute labour, to repair such breach, or remove such obstructions; and such Pathmaster shall give the person, or persons so labouring a certificate, stating the number of day's labour performed in advance for the following year; and which account of days, so certified, shall be taken in whole or in part, as the case may be, by the Pathmaster for the succeeding year, under whose direction such person may be liable to work, as so much labour performed in advance for that year; and any person, who shall neglect or refuse to perform such labour when required, to work in advance as aforesaid, shall be liable to the same penalties, and may be recovered and disposed of in the same way as is provided for, neglecting to perform statute labour; and the Pathmaster is hereby required to divide such labour among such persons as nearly equal as circumstances will permit.

And be it further enacted, by the authority aforesaid, That any person, liable to perform statute labour within the Municipality of Caradoc, and not having commuted for the same, who shall neglect or refuse, after having been duly notified himself, or send a sufficient ablebodied man in his stead, with such wagon or team as may be required by the Pathmaster at the time and place appointed, shall forfeit and pay the sum of one dollar for each day he shall so neglect or refuse, the same to be recovered on complaint of the Pathmaster by a warrant, under the hand and seal of a Magistrate, by distress and sale of the goods and chattels of the person or persons so offending, rendering the overplus (if any) to the party, after deducting the penalty, and

charges attending such distress and sale ; and the imposing of any such fine or penalty, on any person, shall, in no wise, release the person from performing any duty required from him by this By-Law ; but he shall be liable to perform the same at any time within the current year, when called upon so to do, as though no such fine had been imposed ; and in case a sufficient distress cannot be found, then it shall and may be lawful for the Magistrate, before whom such person is convicted, to commit him to the Common Jail of the County, for any time not exceeding six days, in case the fine and costs are not sooner paid.

And be it further enacted, by the authority aforesaid, That every Pathmaster within the Municipality of Caradoc, shall severally make a correct return of all persons within their respective divisions who are liable to work on the highways, and of the labor performed or unperformed by any person liable to perform or commute for the same, and also of the moneys that have come into his hands by virtue of his office, and of the expenditure of the same, which return shall be certified in writing appended thereto, and they shall deliver the same to the Clerk of the Municipality on or before the first day of August in each year ; and every Pathmaster, who shall neglect to make his return as aforesaid, shall, for every such offence, forfeit and pay to the use of the Municipality, a sum not exceeding twenty dollars, which sum and costs attending conviction shall be recovered in the same manner as other forfeitures are now by law recovered and collected.

Passed this fourteenth day of May, in the year of our Lord, one thousand, eight hundred and fifty-nine.

Signed,

EDWARD HANDY,
CLERK.

Signed,

ARCHD. CAMPBELL,
REVE.

BY-LAW No. 100.

A By-Law of the Municipal Corporation of the Township of Caradoc, entitled, "A By-Law to regulate the running at large of animals, and for prescribing the duties of Pound-keepers and Fence-viewers with regard thereto, within the Municipality of Caradoc."

WHEREAS, it is expedient and necessary to exercise the authority vested in us by the 359th sec. of the 54th chap. of the Consolidated Statutes for Upper Canada, it is therefore enacted by the Municipal Council of the Township of Caradoc, in open council assembled :

1. That from and after the passing of this By-Law, no horse, colt, bull, stag, ram, goose, duck, brachy animal (known to be so), or swine under fifty pounds weight, shall be allowed to run at large within the limits of this Municipality. And, in the event of any such animal being found running at large, contrary to the foregoing provisions, it shall and may be lawful for any person, resident in the Township, to impound the same, although no damages be claimed ; such animal to be dealt with by the Poundkeeper, in the same manner as herein provided, in cases in which damages are claimed. And when any of the above enumerated animals is impounded for damage done thereby, it shall not be necessary to inquire into the lawfulness of the fence, around the premises, on which such damage was done.

2. It is further enacted, by the authority aforesaid, That a fence built of sound materials, and not less than five feet in height, (if a worm fence, the worm to be two and-a-half feet from the centre line), the space between the boards or rails, for the first two feet, not exceeding five, and, for the remainder of the height, eight inches, shall be considered a lawful fence. But four feet and a half shall, in all cases, be considered a sufficient height for board and picket fences : and four feet (independent of the riders) for fences with stakes and riders.

3. It is further enacted, That when horses or horned cattle break over a fence, it shall be sufficient that the Fence-viewers find that the said fence corresponds with the requirements of this By-Law, as to height only ; and, when swine break through a fence, it shall be unnecessary for the Fence-viewers to find as to the height of the said

fence, if it be otherwise lawful, as aforesaid. And it shall, in all cases, be in the discretion of the Fence-viewers to say when a fence is sufficient as to strength and soundness.

4. It is further enacted, That, when lands belonging to, or occupied by, two or more different parties, are separated by a pond or creek, which is of itself a sufficient fence; that is, when, in the opinion of the Fence-viewers, it is sufficient to prevent the ingress or egress of horses, horned cattle, &c., the same shall be taken to a lawful fence.

5. It is further enacted, That all animals of the descriptions enumerated in section *one* of the By-Law, found crossing the river Thames from any of the adjoining Townships, and within the limits of this municipality shall be liable to be impounded.

6. It is further enacted, That it shall be the duty of each Poundkeeper of this municipality to provide a sufficient yard for the safe-keeping of such animals as shall be by him impounded, and to daily furnish such animals with good and sufficient food, water and shelter, during the whole time such animals remain impounded. And every Pound-keeper, who shall neglect or refuse to provide and supply such good and sufficient food, water and shelter, as aforesaid, shall, for every day he so neglects or refuses, forfeit a sum of not less than *one*, or more than *five* dollars; which may be recovered by the owner of such animal or animals, by proceedings before any Justice of the Peace.

7. It is further enacted, That any person impounding any animal or animals, shall, at the time, or within twenty-four hours thereafter, deliver to the Pound-keeper, duplicate statements of his demands against the owner thereof, for damages (if any) not exceeding twenty dollars, for each of such animals, and shall, at the same time, give his written agreement under seal (with a surety, if required, by the Pound-keeper) which agreement may be in the following form:—I (or we) will pay to the owner of [describing the animal or animals impounded] by me impounded, all costs to which he may be put by reason thereof, in case the claim for damages now put in by me fails to be at least in part established.

8. It is further enacted, That it shall be the duty of the Pound-keeper, within twenty-four hours of the impounding of any animal or animals, against the owner of which a statement of damages has been filed as provided in the foregoing section, or as soon after as he can be discovered, to notify the said owner that such animal or animals have been impounded, and of the amount of damages claimed. And if the owner shall dispute the damages, the amount thereof shall be determined by a majority of three of the Fence-viewers of the municipality, of whom one shall be chosen by the Pound-keeper, one by the party impounding, and one by the owner of the animal. And the Pound-keeper shall forthwith notify the Fence-viewers so chosen of their appointment, and of the time and place of meeting; whereupon each of such Fence-viewers shall within twenty-four hours of his receiving notice as aforesaid, view the fence and the ground upon which the trespass is alleged to have been committed, and shall determine whether or not the fence was lawful, according to the provisions of this By-Law, at the time of the aforesaid trespass. If they find the fence lawful, as aforesaid, they shall appraise the damages, and within twenty-four hours after having made such view, deliver to the Pound-keeper a written statement of their appraisal, and of their lawful fees, signed by at least two of them. And any Fence-viewer, who neglects to perform his duty as arbitrator as aforesaid, when duly appointed in accordance with the provisions of this section, shall incur a penalty of two dollars, to be recovered, with costs, for the use of the municipality, by summary proceedings before a Justice of the Peace, upon complaint of the party aggrieved.

9. It is further enacted, That if the Fence-viewers find that the fence was not a lawful one, they shall certify the same to the Pound-keeper, in manner provided in the foregoing section (a copy of which the Pound-keeper shall give to each of the parties interested), and, upon the payment of all lawful fees and charges, the Pound-keeper shall deliver such animal or animals to the owner thereof (if claimed before they are sold), but if not claimed, or if such fees and charges are not paid, the Pound-keeper shall sell the same in accordance with the following provisions.

10. It is further enacted, That in case the animal is not redeemed by the owner thereof, or by some other person on his behalf, (after being notified by the Pound-keeper), by paying all lawful fees and charges with the damages awarded (if any), or if the owner be not known to the Pound-keeper, then, the Pound-keeper shall advertise such animal or animals, publishing the same in three of the most public places in the Township, including one at the place in which such animal or animals are im-

pounded ; which advertisement shall, in all cases, be put up (if the animal or animals be not sooner claimed) within forty-eight hours after impounding, and shall contain a description of the animal or animals as nearly as can possibly be given, with the time and place at which such sale is to take place—provided always, that eight clear days' notice shall, in all cases, be given. And, if the owner, or some other person for him, does not redeem the same, before the expiration of the eight days' notice, by paying to the Pound-keeper all lawful fees and charges, and the damages awarded by the Fence-viewers (if any), the Pound-keeper shall proceed to sell such animal or animals by auction to the highest bidder, at the time and place mentioned in the notices of sale ; and, after deducting the costs and damages from the proceeds of the sale, return the surplus (if any) to the owner of the animal. But, if the owner is not known to the Pound-keeper, and is therefore not apprised of the sale before the expiration of the eight days above mentioned, and such animal or animals are of the value of ten dollars or over, the sale shall be postponed for at least six weeks longer (the Pound-keeper again advertising the sale thereof, as aforesaid, and also publishing the same for at least three successive weeks in a weekly newspaper published in the county) ; after which the Pound-keeper shall sell the animal or animals as aforesaid, pay all lawful fees, charges and damages, and retain the surplus (if any) for the full term of four months (if not sooner claimed), and then pay the same to the Township Treasurer, to be a part of the township funds. In all cases, a copy of the notice last above mentioned shall be filed in the office of the clerk of the municipality.

11. It is further enacted, That if any "poultry" be found trespassing, and notice of such trespass be given to the owner thereof, he shall forthwith confine such poultry, or otherwise prevent the repetition or continuance of such trespass ; and, if he neglects or refuses so to do, he shall be subject to a fine of not less than one or more than five dollars, to be imposed as hereinafter provided.

12. It is further enacted, That all fines and penalties imposed by this By-law may be enforced, with costs, by a summary conviction under the Summary Convictions Act, before any Justice of the Peace resident in the Municipality ; and in default of payment the offender may be committed to the Common Jail of the County, there to be imprisoned for any term not exceeding ten days ; unless the fine or penalty, and costs (including the cost of such committal) be sooner paid.

13. It is further enacted, That in all cases ducks or geese may be sold after eight clear days' notice.

14. It is further enacted, That at any time from the fifteenth of November to the first of May in each and every year, it shall and may be lawful for any person resident within the limits of this Municipality, to impound any horses, sheep, horned cattle or pigs, found straying on or near his premises, provided he is of opinion that such animal or animals are suffering from want of food or shelter. And it shall be the duty of the Poundkeeper within whose Division such person resides, to receive such animal or animals, and to deal with the same in manner herein prescribed in the case of animals otherwise impounded. And he shall include in the charges against each animal so delivered to him, the sum of twenty-five cents, over and above all other lawful fees and charges, which sum of twenty-five cents per head, he shall pay over to the party impounding as payment for his trouble in the premises.

15. It is further enacted, That each of the under-mentioned officers shall, for services under this By-Law, be entitled to the following fees, and no more :

POUND-KEEPERS.

1st—ENTRANCE FEES.

For every Bull and Stallion impounded	\$1 00
For every Horse, Colt, Boar or Ram	0 50
For every Sheep or Pig	0 10
For horned Cattle, under three years old, each	0 10
For horned Cattle, over three years old, each	0 20
For Geese or Ducks, each	0 03

2ND—FOR FEEDING, WATERING, AND ATTENDANCE.

For horned Cattle, under three years old, each, per day	\$0 15
For horned Cattle, over three years old, each, per day	0 20
For Sheep, each, per day	0 04
For Hogs, each, per day	0 08

For Horses, each, per day	0 25
For Ducks and Geese, each, per day	0 01

3RD—FOR OTHER DUTIES.

For notifying Fence-viewers and owners, each	\$0 05
For each mile of necessary travel (both ways) to serve such notice	0 05
For advertising in newspaper (not including printer's bill)	0 50
For posting Notices	0 50
For selling each lot	0 50

FENCE-VIEWERS.

For each day employed, each	\$1 00
For any time less than half a day each	0 50

16. It is further enacted by the authority aforesaid, That all By-laws inconsistent with, or repugnant to, this By-law, are hereby repealed.

Passed this 1st day of October, in the year of our Lord, 1864.

Signed,

J. FERGUSON,
CLERK.

Signed,

THOS. NORTHCOTT,
REEVE.

CONSOLIDATED STATUTES FOR UPPER CANADA.**CHAPTER LVII.****An Act respecting Line Fences and Water Courses.**

Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

1. Each of the parties occupying adjoining tracts of land, shall make, keep up, and repair, a just proportion of the Division or Line Fence, on the line dividing such tracts, and equally on either side thereof.

2. Any Fence coming within the meaning of a lawful fence in any By-law of the Municipal Council in that behalf is to be considered a lawful fence, and when no such By-law exists, any Fence-viewers, when called upon, are to exercise their own judgment, and decide what they consider to be a lawful fence.

3. The owner of the whole or part of a Division or Line Fence, which forms part of the Fence, inclosing the occupied or improved land of another person, shall not take down or remove any part of such fence :

1. Without giving at least twelve months' previous notice of his intention to the owner or occupier of such adjacent enclosure.

2. Nor unless such last mentioned owner or occupier, after demand made upon him, in writing, by the owner of such fence, refuses to pay therefor a sum to be determined, as provided in the next sub-section.

3. Nor, if such owner or occupier will pay to the owner of such Fence, or any part thereof, such sum as three Fence-viewers, or a majority of them in writing, determine to be the reasonable value thereof.

4. When any land which has laid uninclosed or in common, is afterwards inclosed or improved, the occupier shall pay to the owner of the Division or Line Fence standing upon the divisional line between such land and the enclosure of any other occupant or proprietor, a just proportion of the value thereof.

5. When a water fence, or a fence running into the water, is necessary, the same is also to be made in equal parts, unless the parties otherwise agree.

6. When lands belonging to, or occupied by, different persons, are divided from each other by any river, brook, pond or creek, which of itself is not a sufficient barrier, and it is impracticable to fence upon the true boundary line, the fence shall be set up on one side of the river, brook, pond, or creek, or partly on oneside and partly on the other, as may be just.

7. When it is the joint interest of parties resident, to open a Ditch or Water Course, for the purpose of letting off surplus water from swamps or low miry lands, in order to enable the owners or occupiers thereof to cultivate or improve the same such several parties shall open a just and fair proportion of such Ditch or Water Course, according to their several interests.

7

8. Three Fence-viewers of the Municipality, or a majority of them, may decide all disputes between the owners or occupants of adjoining lands, or lands so divided or alleged to be divided as aforesaid, in regard to their respective rights and liabilities under this Act, and, also, all disputes respecting the opening, making or paying for Ditches and Water courses, under this Act.

9. Every determination or award of Fence-viewers shall be in writing, signed by such of them as concur therein; and they shall transmit the same (or a certified copy thereof) to the Clerk of the Municipality, and shall also deliver a copy to every party requiring the same, and such determination or award shall be binding on the parties thereto.

10. When the dispute is as to the commencement or extent of the part of the fence to be made or repaired by either party, or as to the opening of a Ditch or Water Course, or as to the part, width, depth, or extent that any person should open or make, either party may, by writing, notify the Fence-viewers of the dispute, and name in the notice for the investigation thereof, the time and place of meeting, and shall also notify the other party to appear at the same time and place.

11. On receiving such notice, the Fence-viewers shall attend at the time and place named, and after being satisfied that the other party has been also duly notified they shall examine the premises and hear the parties and their witnesses, if demanded; and according to the subject matter of the reference shall decide the commencement or extent of the part of the fence which either party claims to have made or repaired, or refuses to make or repair; or shall divide or apportion the Ditch or Water Course among the several parties, having due regard to the interests of each in the opening thereof; and shall fully determine the matters in dispute.

12. On any reference regarding the opening or making of a Ditch or Water Course, the Fence-viewers shall decide what length of time each of the parties shall have to open the share of the Ditch or Water Course, which the Fence-viewers decide each such party shall open, and if it appears to the Fence-viewers that the owner or occupier of any tract of land is not sufficiently interested in the opening of the Ditch or Water Course to make him liable to perform any part thereof, and at the same time that it is necessary for the other party that such Ditch should be continued across such tract, they may award the same to be done at the expense of such other party; and after such award, the last mentioned party may open the Ditch or Water Course across the tract, at his own expense, without being a trespasser.

13. When by reason of any material change of circumstances in respect to the improvement and occupation of adjacent lots or parcels of land, an award previously made under this Act ceases, in the opinion of either of the parties to be equitable between them, such party may obtain another award of Fence viewers by a like mode of proceeding: and if the Fence-viewers called upon to make a subsequent award, find no reason for making an alteration, the whole cost of the reference shall be borne by the party at whose instance it has been made.

14. If any party neglects or refuses, upon demand made in writing as aforesaid, to open, or make and keep open, his share or proportion of the Ditch or Water Course allotted or awarded to him by the Fence-viewers, within the time allowed by them, any of the other parties may, after first completing his own share or proportion, open the share or proportion allotted to the party in default, and shall be entitled to recover not exceeding forty cents per rod for the same from the party so in default.

15. If after an award of the Fence-viewers, or after being required by a demand in writing, by the party occupying the adjoining tract, or a tract separated therefrom by a River, Pond, or Creek, a party in the occupation of any tract of land neglects or refuses, for a period of thirty days, to make or repair (as the case may be) his portion of the Division or Line Fence between his tract and such adjoining or separated tract or if the party making the demand neglects or refuses, for the like period, to make or repair his own proportion of the fence, either party, after first completing his own proportion, may make or repair, in a substantial manner, and of good sound materials the whole or any part of the fence, which ought to have been made or repaired by the other party, and may recover from him the value thereof.

16. To ascertain the amount payable by any person who, under the authority of this Act, makes or repairs a fence; or makes, opens, or keeps open, any ditch or water course, which another person should have done, and to enforce the payment of such amount, the following proceedings shall be taken:—

1. Any of the persons interested, may apply to a Justice of the Peace residing within the Municipality or Township, in which any such fence is situated, and, if

there be no such justice residing therein, then to any Justice of the Peace residing in any adjacent Municipality or Township, and, thereupon, such Justice shall issue a summons under his hand and seal, directed, by name, to three Fence-viewers, of the Municipality in which the fence is situated, requiring them to attend at the place, and on the day and hour therein mentioned, to view such fence, and to appraise the same.

2. The Justice shall, at the same time, issue a summons to the party so having neglected or refused to make or repair his proportion thereof, (who shall henceforth be considered the defendant in the case), requiring him to appear, at the same time and place, to show cause why the party claiming payment, (who shall henceforth be considered the plaintiff in the case), should not recover.

3. The Fence-viewers shall be personally served with the summons, at least four days before the day named for their attendance.

4. If either party desires to procure the attendance of any person to give evidence before the Fence-viewers, the Justice shall, upon the application of such party, issue a summons to such witness or witnesses, to attend before the Fence-viewers, at the time and place mentioned in the summons to the Fence-viewers.

5. The Fence-viewers, when met at the time and place appointed, shall whenever desired by either party, or, whenever they themselves think it proper, may administer an oath to any witness, which oath is to be in the following form:—

" You do solemnly swear, that you will true answer make to such questions as may be asked of you by either of the Fence-viewers now present, touching the matters which they are now to examine and determine. So help you God."

6. The Fence-viewers, or any two of them, being present, shall, after having duly examined the fence and received evidence, determine whether that the plaintiff is entitled to recover any and what sum from the defendant.

7. In case the commencement or extent of the part of the division or line fence which each should make or repair, had not been previously determined by the award of Fence-viewers, the Fence-viewers named in the summons, or any two of them, shall determine the same; and, if they determine that the plaintiff is entitled to recover from the defendant, they shall also state what distance of fence the defendant should have made or repaired.

8. The Fence-viewers, if required by either party, before they report, shall give to such party a copy of their determination.

9. The Fence-viewers shall report their determination in writing, under their hands, to the Justice who issued the summons, and such determination shall be final.

10. The Justice to whom the determination of the Fence-viewers is returned, shall transmit the same to the Clerk of the Division Court having jurisdiction over that part of the Municipality, and shall certify and transmit a copy thereof to the Clerk of the Municipality, to be entered in the book in which the Municipal proceedings are recorded.

11. After the expiration of forty days from the time of the determination, the Clerk of the Division Court shall issue an execution against the goods and chattels of the defendant, in the same manner as if the party in whose favour the determination has been made, had recovered judgment in the Division Court, for the sum which the Fence-viewers have determined him to be entitled to receive, with costs.

17. The following fees, and no more, may be received under this Act, by the persons mentioned, that is to say:—

To the Justice of the Peace.

For Summons to Fence viewers, twenty-five cents.

For Subpoena, which may contain three names, twenty-five cents.

For transmitting copy of Fence-viewers' determination to Division Court, and to Clerk of the Municipality, twenty-five cents.

To the Fence-viewers.

One dollar per day each; if less than half a day employed, fifty cents.

To the Bailiff or Constable employed.

For serving Summons or Subpoena, twenty cents. Mileage per day, six and two-thirds cents.

To Witness. Per day, each fifty cents.

18. Upon the party in whose favour the determination of the Fence-viewers has been made, making an affidavit, which the Clerk of the Division Court may administer, that such fees have been duly paid and disbursed to the persons entitled thereto, the Clerk shall include the amount thereof in the execution, and when collected, shall pay over the same to said party.

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